

CITY COUNCIL MINUTES
February 23, 2009
REGULAR SESSION

The Regular Session of the Auburn City Council was held in the Council Chambers, City Hall, 1225 Lincoln Way, Auburn, California on Monday, February 23, 2009 at 6:00 p.m. with Mayor J. M. Holmes presiding and City Clerk Joseph G.R. Labrie recording the minutes.

CALL TO ORDER
PLEDGE OF ALLEGIANCE
ROLL CALL:

Council Members Present: Kevin Hanley, Bill Kirby, Bridget Powers, J. M. Holmes

Council Members Absent: Keith Nesbitt

Staff Members Present: City Manager Robert Richardson, City Attorney Michael Colantuono, Community Development Director Will Wong, Senior Planner Reg Murray, Fire Chief Mark D'Ambrogi, Public Works Director Jack Warren, Engineering Division Manager Bernie Schroeder, Transit Analyst Megan Siren, Administrative Services Director Andy Heath, Police Chief Valerie Harris

**MAYOR'S COMMENDATIONS/PROCLAMATIONS/ACKNOWLEDGEMENTS/
ANNOUNCEMENTS**

Mayor Holmes stated that he and City Staff were scheduled to meet with the Bureau of Reclamation regarding the canyon property, but the meeting was postponed until March 9, 2009.

Mayor Holmes announced that several job fairs are expected to be held in the Auburn area throughout the next few months.

AGENDA APPROVAL

The agenda was approved as presented by consensus of the Council.

CONSENT CALENDAR

1. **Appointment to Historic Design Review Commission**

By **RESOLUTION 09-18** ratify the Historic Design Review Commission appointment of Architect Terry Green.

2. **Appointment of Telecommunications Commissioners**

Removed from Consent Calendar for discussion.

3. **Public Works Department Consulting Services Agreement**

By **RESOLUTION 09-20** authorize the City Manager or his designee to execute a Consulting Services Agreement with Jack Warren to provide consulting services related to the delivery of the City's Capital Improvement Plan.

4. **Consultant agreement for Wastewater Consulting**

By **RESOLUTION 09-21** authorize the Director of Public Works to execute the consultant agreement with NexGen Utility Management for Wastewater Consulting.

5. **Wastewater Treatment Plan Operations Contract**

Removed from the Consent Calendar for discussion.

6. **Adoption of Local CEQA Guidelines**

- A. By **MOTION** adopt the following Findings of Fact:
1. The project has been reviewed for compliance with the California Environmental Quality Act (CEQA) and found to be exempt per Section 15308 – Actions by Regulatory Agencies for Protection of the Environment:
 2. The Local CEQA Guidelines are consistent with CEQA and CEQA Guidelines; and
 3. The Local CEQA Guidelines are consistent with the Auburn General Plan and the public interest, health, safety, and welfare of the City of Auburn.
- B. By **MOTION** introduce and hold a first reading, by title only, of the ordinance to repeal Chapter 151 (Environmental Quality).
- C. By **RESOLUTION 09-22** adopt Local CEQA Guidelines.

7. **Land Use Appeals Ordinance Amendment**

Removed from Consent Calendar for discussion.

***** End of Consent Calendar *****

By **MOTION** approve the Consent Calendar, consisting of Items 1, 3, 4 and 6. **MOTION: Hanley/Powers/Approved 4:0 (Nesbitt Absent)**

2. **Appointment of Telecommunications Commissioners**

Mayor Holmes explained that the initial resolution was worded incorrectly in that only two appointees were listed. Telecommunications Chair Glenn Tonkin advised that the three suggested appointees were Teresa Schredl, Richard Owens and Paul Mercurio. He said Benjamin Edwards was selected as an alternate.

By **RESOLUTION 09-19** ratify the Telecommunications Commission appointments of Teresa Schredl, Richard Owens and Paul Mercurio.
MOTION: Kirby/Powers/Approved 4:0 (Nesbitt Absent)

5. **Wastewater Treatment Plan Operations Contract**

Public Works Director Jack Warren introduced the item. He advised that an OMI representative Dennis Burrell was present to answer any questions the Council may have. He advised that Mr. Burrell is in charge of many plants in the area. He advised that Mr. Burrell is the person with whom the City has been negotiating regarding OMI's contract which expires July 1, 2009. He said there is still the possibility of preparing a Request for Proposal (RFP) for competitive bids.

Mr. Warren said, depending on Council's direction, the City may be into a construction operation at the existing plant along with its continued consideration of a regional plant. He said it may be a difficult time to change operators. He suggested that for the next three years OMI be retained as the City's contract operator. He said the final negotiated contract would be brought back to the Council. He said the objective is to make certain the wastewater treatment plant is handled in the best possible way.

Council Member Hanley questioned the rationale in shifting from a fixed fee to a percentage of costs, the RFP cost of \$50,000, and review of other local jurisdictions' RFP processes. Council Member Powers suggested that CH2M Hill – OMI attempt to cut their costs. Council Member Kirby stated that \$50,000 sounded reasonable for the cost of an RFP. He said with all the changes occurring at the present time, he would be careful about initiating more changes.

Curt Smith, Auburn resident, suggested that RFP could be created based on the terms of the current contract with OMI.

Council Member Hanley stated that he agreed with Council Member Kirby, that the RFP process is not feasible since the current contract ends in 2009. However, he added that he favors competitive contracting as a policy. He said that in years past the argument was always that “the time was not right” for competitive bids. He said the same argument is currently being presented. He said he would, although he favored extending the current contract, like to start now gathering information from other jurisdictions to prepare an RFP in three years. Council Member Powers concurred with Council Member Hanley.

Council Member Kirby, in agreement with Council Member Hanley, stated that an RFP is a preferred method of contracting. He said that the City has four and one-half months until the contract’s expiration in a situation that is in extreme flux. He said the City does not know what the contract should contain in three years.

By **MOTION** direct staff (1) to prepare a final draft of the proposed operations and maintenance contract with CH2M Hill – OMI with a three year extension, and leave it up to staff to decide whether a 13% management fee or some other provision is most beneficial and (2) direct staff to begin work on preparing an RFP for use in three years’ time.

MOTION: Hanley/Powers/Approved 4:0 (Nesbitt Absent)

7. Land Use Appeals Ordinance Amendment

Senior Planner Reg Murray stated that the item is “primarily a clean-up item for the land use section of the Municipal Code.” He said in conjunction with the City Attorney, the staff has initiated the language to be consistent with all the provisions in the code. He said the only exception is the provision that allows for a “call for review by a Council Member.” He said, procedurally, the City is required to have a fee for appeal process. He said some director’s decisions appeals have no fees, due to the nature of the appeal.

Council Member Kirby made the point that the Council is the elected body and is directly responsible to its constituents. He said it would be extremely rare when a Council Member would want to initiate an appeal, but Council should be allowed that latitude in its oversight responsibilities. He said the Planning Commission discussed the issue at length and recommended that the Council initiate the process. He said he supported the Commission’s recommendation.

Council Member Hanley opposed the need for a Council Member to call for City Council review. He said Council Members should be totally impartial judges. He said he felt that the proposed policy would result in

neighbors going to Council Members in order to avoid a \$100.00 appeal fee.

Council Member Powers stated that the current system works well for the appeal process. She opposed a call for review by a Council Member.

- A. By **MOTION** adopt the following Findings of Fact:
 - 1. The request is exempt from the provisions of CEQA per Section 15061(b) as an activity with no possibility of having a significant effect on the environment.
 - 2. The Land Use Appeals Ordinance is consistent with the General Plan; and
 - 3. The Land Use Appeals Ordinance is consistent with State law and is the minimum necessary to protect the health, safety and general welfare.
- B. By **MOTION** introduce and hold a first reading, by title only, of the Land Use Appeals Ordinance, which amends several sections of the Auburn Municipal Code and adds Chapter 162: Land Use Appeals. **MOTION: Kirby/Motion without a second was not addressed by the Council**
- C. By **AMENDED MOTION** introduce and hold a first reading, by title only, of the Land Use Appeals Ordinance, which amends several sections of the Auburn Municipal Code and excludes Section 162.11, a call for review.
- D. By **RESOLUTION 09-23** adopt a fee for the appeal of a Director's decision.

MOTION: Hanley/Powers/Approved 3:1 to adopt the findings listed under Point A above, the motion listed under Point C and the Resolution listed under Part D (Absent Nesbitt, No Kirby)

8. **Public Comment**

None

REPORTS

9. **City Council Committee Reports**

Mayor Holmes advised that the Placer County Air Pollution Control District Board of Directors increased the funding available for air pollution

control grants to 1.5 million dollars. He said he is hopeful that the City will apply for a grant.

Council Member Powers advised that Arts Commission will report to the Council on March 9, 2009. She said she is assisting the Commission with a 5-year strategic plan. She said the Economic Development Commission has started to meet on a regular basis, every other Tuesday at 4:00 p.m., and will be discussing marketing materials and the "Think Auburn First" program.

Council Member Kirby stated he attended a brief meeting about the economic development situation. He said Council Member Nesbitt brought forward some very good ideas. He said he also attended the meeting of the Cap-to-Cap Water Committee and the Lincoln Basin Project and the Local Regional Sewer Funding will be presented.

INFORMATIONAL Items

10. Solar Energy Project Update

Public Works Director Jack Warren stated that last summer an item was presented to the Council to initiate solar projects in the City Hall parking lot, at the airport and the wastewater treatment plant. He said the financial arrangement was a third party arrangement with a firm that would finance the project. He said the financier would in turn negotiate a payment plan with the city that would begin with a rate less than the current PG&E rate. He said eventually the City would have the opportunity to purchase the system.

He said that last year the federal tax credits ran out and AB2466 was approved by the State of California and became effective January 1, 2009. He advised that at this time federal tax credits have been re-authorized. He said at the same time PG&E rebates, that are important to the financial package, have decreased by 15%.

He said AB2466 allowed for any community to develop a solar field within the jurisdiction and did not have to be site specific. He said that it has just been learned that in order to implement AB2466, the local community has to provide the initial capital investment which amounts to millions of dollars. Therefore, this was no longer feasible for the City of Auburn.

Mr. Warren advised that as part of the recent Federal Economic Stimulus Package California cities with less than 35,000 residents may apply to the California Energy Commission for funding. He said more information is needed from the Federal Government before funding can be requested. He said after speaking with PG&E representatives, he has learned that

AB2466 still has to go through the Public Utilities Commission before it becomes a practical alternative for the City. He suggested that the City wait to see if something in the federal package would be of advantage to the City of Auburn.

Mayor Holmes stated that he has been a proponent of a solar project for quite awhile. He discussed with Mr. Warren whether or not an RFP should be initiated at this time for solar projects to serve the airport and the wastewater treatment plant. Mr. Warren advised that what the economic stimulus package holds is an unknown at this time. He said Public Works is prepared to follow Council's direction, but these are not "shovel ready" projects.

Council Member Hanley asked if the three companies that previously made presentations to the Council were still interested in the project. Mr. Warren advised that two are still interested, but he has not spoken with the other in several months. Mr. Hanley discussed the staff recommendation to eliminate City Hall as one of the sites, due to historic design review, with Mr. Warren. Council Member Hanley stated that he and Council Member Nesbitt had proposed the idea in January 2007 and the RFP process should move forward. He asked Mr. Warren for his analysis of whether the proposals are good for the City and evaluation of the cost factors involved.

Council Member Powers said she would support asking for an RFP and request federal funding within the RFP process.

Council Member Kirby said he felt the airport has a great deal of space in leased hangar space. He asked if solar could be placed on those roofs or on the roofs of new hangars to be built. City Manager Richardson advised that they would not be placed on rooftops, but in open space that is available. Mr. Richardson advised that the hangars are privately owned and it would require a vast amount of negotiation to place the City's project on top of privately owned structures. Dr. Kirby recommended placing a clause in new leases that would allow for solar panels on all new units. He did not favor occupying open space.

Mayor Holmes stated that it would take considerable staff time to prepare an RFP.

The consensus of the Council was to move ahead with an RFP as soon as all information is available and that rooftop space at the airport should be fully explored.

COUNCIL BUSINESS

11. **Auburn Municipal Airport East Area Hangars Ground Lease – James A. Hanson, Attorney, PC, Inc.**

Administrative Services Director Andy Heath asked Council to consider staff's recommendation to approve a ground lease at the airport in the east hangar project area with James A. Hanson, Attorney, PC, Inc.

Mark Machado explained that the lease is the first of several to be brought to Council. He said Mr. Hanson was on a list, met the deposit requirements, and asked to be able to lease an entire row. He said it is Mr. Hanson's intention to subdivide into five individual hangar bays. At that time he will have the option of assigning the lease to an association of individual hangar bay owners. He said the lease is for forty years and the privately held improvements become the property of the City at the termination of the lease. He said the terms of the lease allow only for storage of the aircraft.

By **RESOLUTION 09-24** authorize the City Manager or his designee to execute a 40-year ground lease between the City of Auburn, A municipal Corporation, and James A. Hanson, Attorney, PC, Inc. a California Corporation. **MOTION: Hanley/Powers/Approved 4:0 (Absent Nesbitt)**

12. **Wastewater Treatment Plant Upgrade Project/Regional Wastewater Project**

Public Works Director Jack Warren introduced Dan Rich and Michael Harrison, primary designer of the ultraviolet disinfection system for the onsite wastewater treatment plant project. He said the City has continued with design onsite to comply with waste discharge requirements in the time schedule. He said the City is on schedule to stay in compliance without fines or penalties if the City proceeds with the onsite project.

Mr. Warren advised that the Economic Stimulus Package for wastewater projects is providing monies only to the State Revolving Fund (SRF), Division of the Regional Water Quality Control Board. He said in the past small communities have stayed away from SRF because it is onerous and time consuming and really geared to large communities. He said now the Regional Board promises changes its process, making it easier for application by small communities. He advised that the City will not know where its project lies on the project tentative list with the Regional Board until the end of June. He said that if the City waits until that time, it will be six months into penalties. He said the only alternative is to lobby, once again, the Regional Board to extend the City's deadline to include an additional construction season. He said fines and penalties could be weighed against the possibility of State funding.

Council Member Hanley had questions regarding the financing of the onsite plant, Federal law regarding advertising for bids for Federally funded projects, and the amount of Federal monies to California for wastewater projects.

Council Member Powers inquired about fines. Mr. Warren advised that they are \$3000.00 per violation and there is no way to predict how many violations will occur. He said if the City contracted for the on-site project, authorized for design by the Council, it would cost substantially less than \$10,000,000.00. Funding options were discussed.

Mayor Holmes stated that the recommendation is clear that the City continue the engineering design for the upgrade for the local plant. He said if the City advertises for that, it may make the City ineligible for other funding. He said, although discussion needs to be continued, in his opinion the Placer Nevada Wastewater Authority has diminished in its effectiveness. He said he will support the recommendation with the caveat that the City needs to be careful in its discussion with the Placer Nevada Wastewater Authority.

Council Member Hanley agreed with Mayor Holmes and added that he does not mind continuing to discuss the regional option. He said a lot of consideration has already been given to the regional plant and funding for it. He said, although the regional plant may be a future solution, the City needs to continue with the local plant upgrade. He recommended deferring advertising until the March 23rd meeting to utilize the added time to see if any other opportunities are available. Council Member Powers concurred.

Council Member Kirby stated that the regional plant is the best solution, but does not seem viable at this point. He said the Regional Board has agreed to work with the City. He felt, if the City waited until July to find out what may be available in terms of funding, fines probably would not be levied. He said the City needs to go ahead with the plant upgrade and keep all options open in the event funding becomes available.

By **RESOLUTION 09-25**,

- A. Continue engineering design of onsite improvements to the wastewater treatment plant; and
- B. Direct staff to defer advertising until after the Council meeting of March 23, 2009 of the onsite improvements to the wastewater treatment plant; and
- C. Continue working with the Placer Nevada Wastewater Authority regarding the Regional Wastewater Treatment Project.

MOTION: Powers/Hanley/Approved 4:0 (Nesbitt Absent)

ADJOURNMENT

Mayor Holmes, without objection, adjourned the meeting at 7:54 p.m.

J. M. Holmes, Mayor

Joseph G. R. Labrie, City Clerk